

ORAL ARGUMENT NOT YET SCHEDULED
IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMERICAN FUEL & PETROCHEMICAL
MANUFACTURERS; AGRICULTURAL
RETAILERS ASSOCIATION; AMERICAN
PETROLEUM INSTITUTE; AMERICAN
ROYALTY COUNCIL; CALIFORNIA
ASPHALT PAVEMENT ASSOCIATION;
CALIFORNIA MANUFACTURERS &
TECHNOLOGY ASSOCIATION; CONSUMER
ENERGY ALLIANCE; DOMESTIC ENERGY
PRODUCERS ALLIANCE; ENERGY
MARKETERS OF AMERICA; LOUISIANA
MID-CONTINENT OIL & GAS
ASSOCIATION; NATIONAL ASSOCIATION
OF CONVENIENCE STORES; NEVADA
PETROLEUM MARKETERS &
CONVENIENCE STORE ASSOCIATION; THE
PETROLEUM ALLIANCE OF OKLAHOMA;
TEXAS ASSOCIATION OF
MANUFACTURERS; TEXAS OIL & GAS
ASSOCIATION; TEXAS ROYALTY COUNCIL;
and WESTERN STATES PETROLEUM
ASSOCIATION,

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY,

Respondent.

Case No. 23-1146
(consolidated with
Case Nos. 23-1143
23-1144, 23-1145,
23-1147, 23-1148)

PETITIONERS' NONBINDING STATEMENT OF ISSUES

Pursuant to this Court's order of June 6, 2023, petitioners American Fuel & Petrochemical Manufacturers, Agricultural Retailers Association, American Petroleum Institute, American Royalty Council, California Asphalt Pavement Association, California Manufacturers & Technology Association, Consumer Energy Alliance, Domestic Energy Producers Alliance, Energy Marketers of America, Louisiana Mid-Continent Oil & Gas Association, National Association of Convenience Stores, Nevada Petroleum Marketers & Convenience Store Association, The Petroleum Alliance of Oklahoma, Texas Association of Manufacturers, Texas Oil & Gas Association, Texas Royalty Council, and Western States Petroleum Association submit this Nonbinding Statement of Issues in the consolidated cases challenging the final action of the United States Environmental Protection Agency ("EPA") entitled California State Motor Vehicle and Engine Pollution Control Standards; Heavy-Duty Vehicle and Engine Emission Warranty and Maintenance Provisions; Advanced Clean Trucks; Zero Emission Airport Shuttle; Zero-Emission Power Train Certification; Waiver of Preemption, published at 88 Fed. Reg. 20688 (April 6, 2023).

The issues presented are (1) whether Section 209(b) of the Clean Air Act violates the Constitution by granting California regulatory authority denied to other states; and (2) whether EPA exceeded its statutory authority and/or acted arbitrarily and capriciously in concluding that (a) California's standards are at least as protective as federal standards; (b) California needs the standards at issue to meet compelling and extraordinary conditions; and (c) California's standards are consistent with Section 202(a) of the Clean Air Act.

Dated: July 6, 2023

Respectfully submitted,

/s/ Eric D. McArthur
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Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2023, I caused the foregoing to be served by electronic means through the Court's CM/ECF system, on all counsel of record.

Dated: July 6, 2023

Respectfully submitted,

/s/ Eric D. McArthur

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